Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Developing a Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
	)	

REPLY COMMENTS
of
THE RURAL ALLIANCE

April 12, 2007

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I. Introduction

The Rural Alliance[1] files these reply comments in response to comments filed on or before March 28, 2007, by 30 parties. In this proceeding, the Commission seeks comment on the Federal Benchmark Mechanism (FBM) that was filed by the Missoula Plan Supporters and five "early adopter" state commissions on January 30, 2007.[2] The FBM was developed through a collaborative effort of the Missoula Plan Supporters and the state commissions. The Rural Alliance participated actively in that process. The Rural Alliance did not file initial comments in this proceeding, but files these reply comments to respond to what we believe to be inaccuracies and misstatements in the filings of certain other parties. The Rural Alliance believes that intercarrier compensation reform is essential, and that the Missoula Plan, including the Federal Benchmark Mechanism, will accomplish this in a way that will benefit rural consumers and the public interest. The Commission should proceed expeditiously to approve the Missoula Plan and the Federal Benchmark Mechanism.

II. Intercarrier Compensation reform – particularly for rural carriers – is essential

The current ICC regime is unsustainable. In many states, rural carriers have intrastate access charges significantly above interstate levels. While the rate levels and designs for switched interexchange access services that have resulted in this disparity may have been rational and sustainable at an earlier time, the evolution of new technologies and services interconnected to rural local exchange networks necessitates the changes proposed by the Missoula Plan. The jurisdictional rate disparity that exists in many states unfortunately encourages arbitrage. This has, in fact, become a primary cause of phantom traffic which is becoming a significant and growing problem for rural carriers.

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[1] The Rural Alliance is a group sponsored by over 300 rural telephone companies organized to advocate for effective intercarrier compensation reform that will benefit rural consumers and the companies that serve them.
[2] Letter to Marlene Dortch *Re: CC Dockety No. 01-92, Missoula Plan Amendment to Incorporate a Federal Benchmark Mechanism,* dated January 30, 2007

The Missoula Plan addresses this problem in two ways – initially by providing standards and rules for call identification, and ultimately by reducing intrastate rates to interstate levels for Track 3 carriers, thereby addressing one of the root causes of this problem. The Missoula Plan provides for an orderly transition that will greatly benefit rural consumers and accelerate the delivery of rural broadband services. The Plan includes a Restructure Mechanism (RM) that provides a new vehicle to ensure that the payment of costs to interconnect to the rural networks, as identified by the Commission, are recovered in an equitable manner from all beneficiaries of interconnection to the rural networks. The establishment of the RM together with the adoption of the entire Missoula Plan will ensure that the rural rate-of-return ("RoR") regulated carriers continue to have a reasonable opportunity to recover costs, an essential element in ensuring that rural carriers have both the ability and incentive to make infrastructure investment that will be necessary for the delivery of advanced broadband services. Accordingly, the addition of the FBM to the Missoula Plan is a vital element. The FBM provides rate comparability for consumers across the country and assures that consumers in those States that have made progress in implementing intrastate access reform will not inadvertently be penalized for the prudent actions of their State regulators in their efforts to address intrastate access charge reform.

The Missoula Plan presents a reasonable path for intercarrier compensation reform and will greatly assist in the transition to a broadband environment. The shift to a broadband environment will necessarily undermine a fundamental traditional source of revenues (i.e., access charges) that have been an integral part of a carefully constructed rate design used to support the underlying costs of the current network. In the absence of the past utilization of access charges as part of that rate design, rural carriers would not have been able to provide the quality networks available to their customers in the absence of inordinate charges to rural consumers that would be contrary to the principles of universal service. Similar consideration leading both to rational rate design and cost recovery mechanisms is essential today in order to continue to foster investment in rural telecommunications infrastructure. Without the transition and restructure mechanisms provided by the Plan, rural carriers may be unable to pay the debt on existing infrastructure and likely will not be able to deploy next-generation infrastructure. The Plan provides the Commission and the states with solutions before a crisis develops. It also begins to size the level of explicit federal funding necessary to support the Commission's universal service goals in a broadband environment.

The FBM represents a significant enhancement to the Missoula Plan. It is responsive to comments that consumers that already pay high rates should not see additional SLC increases, consumers that enjoy low rates are not bearing their fair share of the burden to implement the transition, and that the Early Adopter Fund in the original Plan did not adequately address the needs of early adopter states that had raised basic rates. The FBM provides substantial benefits to all consumers in that it promotes rate comparability while it also addresses concerns for consumers in early adopter states where reductions in intrastate access charges have already resulted in increases to consumer basic rates. Accordingly, the FBM ensures that consumers of companies with rates already at or close to benchmark levels will not also be assessed some or all of the additional Subscriber Line Charge ("SLC") increases proposed in the Plan. It also ensures that consumers in those States that have implemented state universal service funds as part of the rate rebalancing process will directly benefit from reduced assessments for state USF funding. The cost of the FBM (8 cents per telephone number per month) is modest in comparison to the benefits that it will bring.

II. The criticisms of the FBM made by some commenters are misguided or just plain wrong

A. The FBM will not adversely impact consumers and the Universal Service Fund

In fact the FBM will assist the Commission in assuring rate comparability, as require by law. The FBM will establish some degree of rate comparability across the nation. Consumers that pay rates above a High Benchmark Target will not see any SLC increases under the plan and those that have even higher rates will see some rate relief. For consumers that pay below a Low Benchmark Target they will bear more of the impact of the transition. The FBM along with the restructure mechanism will allow the needed restructuring of intercarrier compensation to occur while minimizing the impact on consumers nationwide.

While the FBM, as well as the RM, will require additional explicit funding resources the plan does not result in any additional costs. It is also incorrect for commenting parties to assume that the impact of either of these mechanisms is “adverse.” To the contrary, the very essence of the FBM, similar to the RM and the entirety of the Missoula Plan, is to create a new and rational balance in the manner in which all users share the costs of interconnection through the establishment of new mechanisms that will beneficially serve the overall public interest. Accordingly, the FBM ensures that all consumers pay comparable rates, and that consumers in States with rates at or near the High Benchmark Target do not pay all of the SLC charges originally contemplated by the Plan because they are already paying toward their “fair share” of interconnection costs as a result of the changes already undertaken in their States. Similarly, the Plan ensures that LifeLine qualifying customers are not asked to pay additional charges; the LifeLine program already establishes the “fair share” to be assessed to consumers that qualify for the LifeLine support program. Moreover, the Rural Alliance submits that the FBM should be established in a manner that will not increase or add additional pressures to the existing USF program. The FBM, similar to the RM, is a mechanism to recover revenues associated with access costs identified explicitly by the Commission. Accordingly, the FBM, like the RM, should be an access charge element that is available only to ILECs and CLECs that face mandatory access charge reductions under the Plan.

B. Arguments by certain so-called "net contributor" States that the FBM adversely impacts them miss the point of the benefit of the FBM to the overall public interest.

Assuring that all consumers nationwide have access to comparable services at comparable prices will, of necessity, require revenue payments from consumers in States where costs are predominantly low that are used to pay for the costs of networks in States where costs may be relatively higher due to geographic conditions and population density. This reality is neither surprising nor new. While consumers in "low cost" States may enjoy the benefit of the networks that directly serve them, they also enjoy the "as needed, on-demand" ability to use the networks in "high cost" States when they communicate with consumers in those states. Accordingly, all consumers nationwide will benefit from the access reforms contained in the Missoula Plan and the enhancement of rural broadband infrastructure and the wider availability of advanced broadband services that it will bring. The FBM was added to the Plan to ensure that consumers in all States are treated reasonably and fairly, and that past activities that States have undertaken to address intercarrier compensation issues are appropriately recognized. If the touchstone for any plan were that there is no financial impact on States with predominantly low-cost networks serving their customers, then the Commission's universal service goals would be impossible to ever achieve. The key factors in evaluating any plan must be fairness and balance, and both the FBM and the entire Missoula Plan were carefully designed to produce such results.

C. Contrary to the arguments by some that the FBM "exacerbates" perceived problems and/or deficiencies in the Missoula Plan, the FBM represents a significant Plan enhancement

A number of commenters argue that rather than constituting an improvement, the FBM "exacerbates" problems already in the Plan, or "makes a bad plan worse."[3] Some commenters also

[3] See for example Broadview Networks, et. al. at page 2, MACRUC at page 2, New Jersey Board of Public Utilities at page 3, Public Utilities Commission of Ohio at page 2, Qwest at page 4, and Verizon at page 1.

suggest that the Plan should be rejected because it does not represent a "consensus."[4] As stated at the beginning of these comments, however, the current system is fundamentally flawed, and reform of the present system – particularly for rural carriers – is badly needed. Moreover, it is no secret that certain parties and classes of carriers and customers benefit from the current flawed system. In many instances, carriers have structured their business operations to take advantage of anomalies in the current system. Accordingly, it is not surprising that greater consensus does not exist for a plan that truly reforms the current system. The Rural Alliance respectfully submits that certain parties would find fault with any reform plan that might be proposed because of the direct impact on their interests that are based on the flaws and anomalies in the existing interconnection regime.[5]

The Rural Alliance strongly believes, and other commenters agree,[6] that the Missoula Plan is a better Plan with the FBM than without it. Even those who may oppose the overall plan recognize the benefit that the FBM brings to the reform of intercarrier compensation. The Public Utility Commission of Ohio states "In fairness, the newest proposal does attempt to provide a more balanced allocation of benefits to early adopter states."[7] NASUCA states that "The FBM would be worth more consideration if it were presented independently in the Commission's universal service dockets."[8]

The FBM was developed in response to concerns that the Early Adopter Fund provisions in the original Missoula Plan did not take into account the impact on consumers of actions by State commissions to offset intrastate access reductions through basic rate increases. Importantly, the

[4] See for example MACRUC at page 2, New Jersey Board of Public Utilities at page 4, and Public Utilities Commission of Ohio at page 4.
[5] As Machiavelli observed long ago in *The Prince*, "It must be considered that there is nothing more difficult to carry out, nor more doubtful of success, nor more dangerous to handle, than to initiate a new order of things. For the reformer has enemies in all those who profit by the old order, and only lukewarm defenders in all those who would profit by the new order."
[6] See for example Blackfoot Telecommunications Group at page 1, GVNW Consulting, Inc. at page 6, Nebraska Public Service Commission at page 3, OPASTCO at page 6, South Dakota Telecommunications Association at page 3, Wyoming Public Service Commission at page 4.
[7] Public Utilities Commission of Ohio at page 5.
[8] NASUCA at page 2.

FBM ensures that consumers in States with basic rates above or near the high benchmark level will be exempt from SLC increases that otherwise would be required under the Plan. It will also relieve the burden on consumers in States where a state universal service fund was established to facilitate rate rebalancing through lower assessment levels. The FBM represents a significant enhancement to the Plan, and the Commission should include it in any intercarrier reform package that it might approve.

D. Verizon's continued argument that commercial negotiated agreements are preferable to the Missoula Plan, including the FMB, is disingenuous

In explaining its opposition to the Missoula Plan, in general, and the FBM, in particular, Verizon makes the statement "Intercarrier compensation reform should be focused on transitioning from a system of regulated rates to one of commercially negotiated agreements."[9] As explained more fully in prior Rural Alliance comments in this proceeding,[10] commercially negotiated agreements can be particularly harmful when the two parties to the negotiations have vastly different levels of market power – as would be the case between Verizon and small rural carriers. If large carriers with market power are able to force intercarrier rates to very low levels, the careful balance between end-user rates, intercarrier compensation (including the Restructure Mechanism and Federal Benchmark Mechanism) and explicit universal service support would be upset to the detriment of rural consumers and the universal service goals of the Commission. The cost-based rates established by the Missoula Plan, in conjunction with the Restructure Mechanism and the Federal Benchmark Mechanism, are critical elements to provide rural carriers with the continued opportunity to attract the capital and financing necessary to enable the continued investment in telecommunications infrastructure that will bring advanced broadband services to rural consumers.

[9] Verizon at page 2.

[10] See Reply Comments of the Rural Alliance filed July 20, 2005 at page 26.

Verizon's motives in this proceeding become even clearer when it states "Many of the [Missoula] Plan's flaws are rooted in its uneconomic favoritism and subsidization of mid-sized and rural carriers at the expense of next-generation technologies."[11] The Rural Alliance asserts that Verizon's ploy should be rejected. The Missoula Plan poses no threat or expense to "next-generation technologies." The plan ensures a stable environment for the migration to broadband networks and fosters the development of networks available to interconnect to the next-generation networks throughout the nation.

Moreover, when Verizon suggests that the Plan impedes next-generation technologies, its very comment raises the fundamental question addressed by the Missoula Plan – next-generation technologies for whom? The Missoula Plan answers the question with a resounding response – next-generation technologies for all consumers throughout the Nation regardless of where they live and work. Verizon, on the other hand, has made it abundantly clear by its recent actions to divest significant portions of its rural territory that it has no intention of investing to bring broadband service – let alone next-generation advanced broadband service – to rural America. Accordingly, the Rural Alliance respectfully asks the Commission to discount and disregard Verizon's vehement vitriolic against the very provisions of the Missoula Plan that enable carriers that are actually willing to serve rural markets to invest to bring broadband services to rural consumers..

E. Contrary to the allegations of some, the HBT and LBT levels were selected to produce a rational and balanced outcome for ICC reform, and help to assure reasonably comparable rates nationwide.

The HBT and LBT were designed to balance the benefits and costs of intercarrier compensation reform and to minimize the impact on consumers of the reforms contained in the Missoula Plan. An examination of the results of the FBM clearly demonstrates this balance. Category A funding under the FBM provides that consumers of companies with Residential

[11] Verizon at page 2.

Revenues per Line[12] above or near the High Benchmark Target of $25 per line per month will be spared SLC increases that would otherwise be applied under the Plan. For consumers of Track 3 companies with rates above this level, this will avoid an increase of $2.25 in their monthly rate. As shown in the FBM ex-parte filing, this will produce a Category A funding requirement of $579M, in fact the entire FBM will cost only 8 cents per telephone number per month.[13] A higher HBT number would result in significantly more consumers having to pay higher monthly SLC charges, while a lower HBT number would have significantly increased the size of Category A funding and the assessment on all telephone numbers.

The Low Benchmark Target of $20 assures that consumers of companies with Residential Revenue per Line of less than this level would have to pay an additional interstate SLC amount of up to $2 per line per month. As shown in the ex-parte filing submitting the FBM, consumers in 19 states will be required to pay approximately $25 million in extra SLC charges to offset replacement funding that would otherwise be recovered from the RM.[14] This insures that all consumers pay basic rates of some minimum benchmark level before their providers can expect to receive RM funding that is collected from assessment on all consumers nationwide. The HBT and LBT were set to establish a reasonable balance, and should be approved by the Commission.

[12] Residential Revenues per Line is the sum of the basic residential local rate (1FR or equivalent) plus mandatory EAS plus current interstate SLC plus current intrastate SLC and SLC-like surcharges (e.g., NIC, NAF) plus State USF per line for a given study area.
[13] *Id.*
[14] It is important to note that consumers would face this SLC increase only if a series of circumstances existed: their carrier must first be entitled to RM funding due to mandated rate reductions under the Plan; intrastate access rates were not already within 10% of interstate access rates; the carrier chose to impose the SLC increase on its customers; and if the carrier had RRPL less than the LBT.

IV. Conclusion

Intercarrier compensation reform is essential, and the Missoula Plan provides a rational and phased approach to accomplishing this reform. The FBM is an important enhancement to the Plan, and ensures equity in the treatment of consumers in all States. The Rural Alliance urges the Commission to proceed expeditiously to implement the Missoula Plan, including the FBM.

Respectfully Submitted,

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